

# West Virginia Board of Medicine

## INTRODUCTION

The West Virginia Board of Medicine will be publishing quarterly newsletters to update the medical community on issues before the Board and will provide information on the Board's activities (i.e., licensure, discipline). The Board welcomes your comments and suggestions for future issues.

## Statutory Requirements

**P**ursuant to the provisions of West Virginia Code §48A-5A-5(c), the West Virginia Board of Medicine will be required to include questions on initial licensure applications and renewal applications relative to child support. West Virginia Code §48-5A-5(c) reads as follows:

Each licensing authority shall require license applicants to certify on the license application form, under penalty of false swearing, that the applicant does not have a child support obligation, the applicant does have such an obligation but any arrearage amount does not equal or exceed the amount of child support payable for six months, or the applicant is not the subject of a child-support related subpoena or warrant. A license shall not be granted to any person who applies for a license if there is an arrearage equal to or exceeding the amount of child support payable for six months or if it is determined that the applicant has failed to comply with a warrant or subpoena in a paternity or child support proceeding. The application form shall state that making a false statement may subject the license holder to disciplinary action including, but not limited to, immediate revocation or suspension of the license.

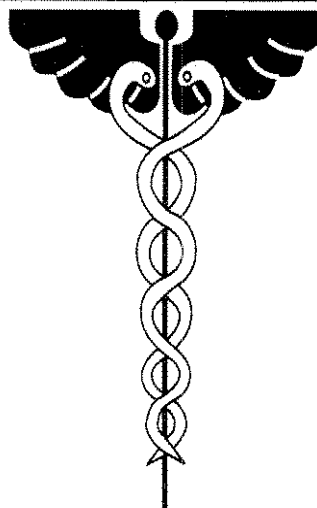
### 1998 Meetings of the West

### Virginia Board of Medicine

January 12                      March 9

May 11                              July 13

September 14      November 9



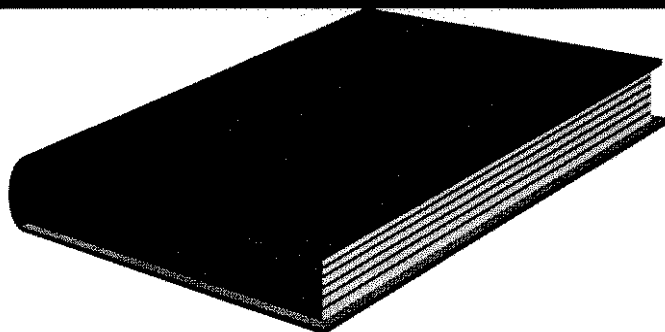
## PAIN CONTROL FOR TERMINALLY ILL PATIENTS

All West Virginia licensed M.D.'s are subject to the AMA Code of Medical Ethics, by Board rule. That Code contains many helpful opinions on many matters of concern to physicians,

including three separate opinions relating respectively to Withholding or Withdrawing Life-Sustaining Medical Treatment, Euthanasia, and Physician-Assisted Suicide, each of which opinions addresses the responsibility of the physician in those instances to relieve pain and suffering and to provide adequate pain control. A letter from the President of the Board dated February 24, 1997, was sent to every physician then holding an active license to practice in West Virginia specifying this, with the three opinions attached, 2.20, 2.21, and 2.211. If you are interested in receiving a copy of the February 24, 1997, letter with the attached opinions, please contact the Board.

## INSIDE THIS ISSUE

- Upcoming Board Meetings
- Disciplinary Actions
- Committees Lists
- Staff and Board Members



## Board Disciplinary Actions - 1997

Acosta, Armando M., M.D. - Williamson, WV (12/11/97)

**Board Finding:** failing to keep written records justifying the course of treatment of a patient, unprofessional conduct, and failing to perform a statutory or legal obligation.

**Board Action:** effective December 20, 1997, license suspended for a period of five (5) years, suspension immediately stayed, and placed on probation for a period of five (5) years, until December 20, 2002.

Arce, Jose B., M.D. - Charleston, WV (07/31/97)

**Board Finding:** relating to failing to keep written records justifying the course of treatment of a patient and unprofessional conduct.

**Board Action:** publicly reprimanded for prescribing medications to a person without any examination of said person and without ever having met such person; and placed on probation for a period of two years effective August 1, 1997, and terminating August 1, 1999, subject to compliance with certain terms.

Burke, Jr., Paul W., M.D. - Parkersburg, WV (07/25/97)

**Board Finding:** relating to excessive use of alcohol.

**Board Action:** license suspended effective July 28, 1997, at 12:01 a.m., which suspension was immediately stayed, and Dr. Burke was placed on probation for a two-year period, until July 28, 1999, at 12:01 a.m., during which period of probation Dr. Burke shall comply with certain terms.

Castro, Orlando Roa, M.D. - East Liverpool, OH (08/12/97)

**Board Finding:** relating to having a license to practice medicine in another state suspended or otherwise acted against, and failing to practice medicine with a level of care, skill, and treatment recognized by a reasonable, prudent physician as being acceptable under similar conditions and circumstances.

**Board Action:** license suspended effective August 10, 1997, for an indefinite period of time, but for not less than one year, and the Board shall not consider reinstatement of Dr. Castro's license to practice medicine and surgery unless and until minimum requirements are met.

Cooper, Warren Lindley, M.D. - Marietta, OH (05/28/97)

**Board Finding:** pertaining to the excessive use of alcohol.

**Board Action:** surrendered license reinstated effective June 1, 1997, at 12:01 a.m., and publicly reprimanded for Dr. Cooper's poor judgment in consuming alcohol in such a manner that he operated a motor vehicle under the influence of alcohol so as to result in his entering a plea of no contest to the charge of operating a motor vehicle under the influence of alcohol in Case Number 94 TRC 6723, in the State of Ohio in August, 1994.

Gajendragadkar, Subhash, M.D. - Bradley, WV (05/13/97)

**Board Finding:** relating to conviction of crimes, filing false reports, and unprofessional conduct.

**Board Action:** one-year suspension contained in the Consent Order beginning November 18, 1996, will remain in effect until November 18, 1997, practice to resume in probationary status for two-year period.

Garza, Gilberto A., M.D. - Huntington, WV (05/28/97)

**Board Finding:** relating to deceptive representations in the practice of medicine and unprofessional conduct.

**Board Action:** publicly reprimanded for his conduct which resulted in the restriction upon his medical staff privileges at Cabell Huntington Hospital, Huntington, West Virginia; assessed a civil fine; to successfully complete specific continuing medical education.

Goodarzi, Ali Assghar, M.D. - Beckley, WV (01/16/97)

**Board Finding:** submitted a false document to the Board in connection with his licensure renewal application and therefore engaged in conduct that was a failure to conform to the standards of acceptable and prevailing medical practice and the ethics of the medical profession.

**Board Action:** publicly reprimanded for his conduct in submitting a false document to the Board in connection with his licensure renewal application.

Healy, Paul T., M.D. - Keyser, WV (01/17/97)

**Board Finding:** made a deceptive, untruthful, and fraudulent representation in the practice of medicine; failed to perform a legal or statutory obligation placed upon a licensed physician; engaged in unprofessional, unethical, and dishonorable conduct; and committed an act contrary to honesty which has the effect of bringing the medical profession into disrepute, and which is a departure from the principles of medical ethics of the American Medical Association.

**Board Action:** effective January 25, 1997, at 12:01 a.m., license suspended for five (5) years, until January 25, 2002; effective January 25, 1997, at 12:01 a.m., the suspension was stayed subject to immediate dissolution and termination upon the Board's determination of Dr. Healy's failure to comply with any other term or condition of the Order.

(02/26/97): final Order of the Board appealed by Dr. Healy to the Circuit Court of Mineral County. The petition for Appeal was granted, and the Motion for Stay was denied.

(02/26/97): Dr. Healy failed to pay the civil fine pursuant to the January 17, 1997, Board Order. Stay of suspension dissolved and terminated effective February 27, 1997.

(03/03/97): license suspension again stayed effective March 4, 1997, at 12:01 a.m., pursuant to the Board's receipt of Dr. Healy's civil fine.

**Court Action:** Board Order affirmed by Order of the Circuit Court of Mineral County of March 24, 1997. Dr. Healy filed a Petition for Appeal with the Supreme Court of Appeals in July, 1997 and the West Virginia Supreme Court has accepted the appeal.

Lirio, Jr., Apolonio E., M.D. - Crab Orchard, WV (11/14/97)

**Board Finding:** making a deceptive, untrue, or fraudulent representation in the practice of medicine and surgery; and unprofessional conduct.

**Board Action:** license suspended for five years; suspension stayed; civil fine; random audits to be conducted on Dr. Lirio's patient records.

Luckton, Boonlue, M.D. - Beckley, WV (01/24/97)

**Board Finding:** did not obtain a passing grade of 75 or above on the SPEX, pursuant to the provisions of the July 18, 1996, final Order of the Board.

**Board Action:** license to practice medicine and surgery in the State of West Virginia stands revoked effective January 25, 1997.

Marshall, John T., M.D. - Philippi, WV (02/11/97)

**Board Finding:** relating to having disciplinary action taken against his medical license in another jurisdiction.

**Board Action:** publicly reprimanded for having disciplinary action taken against his medical license in Virginia for inappropriate and excessive billing for certain services.

Muzaffer, Rahmet, M.D. - Welch, WV (12/02/97)

**Board Finding:** unprofessional conduct.

**Board Action:** license placed in a probationary status for a period of two (2) years, beginning December 1, 1997, and terminating November 30, 1999, subject to compliance with terms.

Nolan, Mark W., M.D. - Pt. Pleasant, WV (07/17/97)

**Board Finding:** relating to excessive use of alcohol.

**Board Action:** licensed to practice medicine and surgery in the State of West Virginia effective July 18, 1997, subject to restrictions, limitations, and accommodations for a period of one year, terminating July 18, 1998.

Peterson, Frank Ruhl, M.D. - Cleveland Heights, OH (01/16/97)

**Board Finding:** relating to presenting false statements and fraudulent misrepresentation on his license application; relating to addiction to a controlled substance and the inability to practice medicine with reasonable skill and safety by reason of excessive use of drugs; relating to engaging in unprofessional, unethical, and dishonorable conduct.

**Board Action:** license revoked effective January 17, 1997.

Rashid, Richard C., M.D. - Charleston, WV (07/15/97)

**Board Finding:** no clear and convincing evidence of unprofessional, unethical, dishonorable conduct, or of a failure to practice medicine with that level of care, skill, and treatment recognized by a reasonable, prudent physician engaged in the same specialty as acceptable under similar conditions and circumstances.

**Board Action:** The Board dismissed three of four charges against Dr. Rashid and remanded a fourth charge back to its Complaint Committee for further investigation and a report.

**Court Action:** Dr. Rashid has filed an appeal of the Board's action in the Circuit Court of Kanawha County.

Reyes, Jr., Samson D., M.D. - St. Clairsville, OH (09/09/97)

**Board Finding:** found guilty by a court of competent jurisdiction of three felonies involving unlawfully distributing controlled substances under State or Federal law for other than generally accepted therapeutic purposes.

**Board Action:** license revoked effective immediately under the provisions of West Virginia Code 30-3-14(d).

Rikhy, Swaraj S., M.D. - Charleston, WV (05/14/97)

**Board Finding:** engaged in dishonorable conduct which brings the medical profession into disrepute; failing to perform any statutory or legal obligation.

**Board Action:** the inactive license to practice medicine and surgery in the State of West Virginia of Dr. Rikhy was placed on probation until December 31, 1999, with certain terms.

**Court Action:** Dr. Rikhy has filed an appeal of the Board's action in the Circuit Court of Kanawha County.

Scharf, Charles Selden, M.D. - Beckley, WV (06/02/97)

**Board Finding:** relating to unprofessional and unethical conduct, prescribing excessively, and having had his license to practice medicine acted against.

**Board Action:** license revoked effective May 31, 1997; revocation stayed; and placed on probation for a period of five years, terminating May 31, 2002, subject to conditions and limitations.

Shepherd, Jr., J. Banks, M.D. - Charleston, WV (02/10/97)

**Board Finding:** pursuant to the provisions of West Virginia Code 30-3-14(c)(17) and 11 CSR 1A 12.1(e) and (j) and as further described in 11 CSR 1A 12.2(a)(C) and (d).

**Board Action:** Dr. Shepherd shall cease and desist from all care and treatment of his wife, including any ordering, prescribing, administering, dispensing or giving of any medications whatsoever, and shall so notify his wife.

Starr, Robert, M.D. - Weirton, WV (07/16/97)

**Board Finding:** had his license to practice medicine in another state both suspended and revoked, and that his conduct resulting in such disciplinary action was unprofessional, unethical, and dishonorable.

**Board Action:** license revoked effective July 17, 1997. Hearing continued until a mutually convenient date and time.

Vandiveer, Carol Ann, M.D. - Huntington, WV (12/01/97)

**Board Finding:** presenting a false statement in connection with an application for a license.

**Board Action:** granted a license to practice medicine and surgery in the State of West Virginia effective December 1, 1997, and publicly reprimanded for providing inaccurate information to the Board on her licensure application submitted to the Board in June, 1997.

Vondran, Janet Elise, M.D. - Lewisburg, WV (04/01/97)

**Board Finding:** relating to unprofessional and unethical conduct.

**Board Action:** publicly reprimanded for closing her office in Beckley and causing prescription drugs to be discarded in a dumpster, and she was assessed a civil fine for said conduct.

Vutla, Prasad V., M.D. - Parkersburg, WV (07/15/97)

**Board Finding:** due to the provisions of West Virginia Code 30-3-14(c)(17) and 11 CSR 1A 12.1(h).

**Board Action:** license reinstated effective July 15, 1997, for a period of two years, until July 15, 1999, with the express accommodation, restriction, and limitation that Dr. Vutla shall be accepted into and successfully complete the Occupational Medicine Residency program at the University of Pittsburgh Graduate School of Public Health.

#### Licenses Surrendered - 1997

Bonitatibus, Patricia J., M.D. - Wheeling, WV

**Board Action:** license surrendered to the Board effective March 29, 1997.

Foster, John Michael, M.D. - Marietta, OH

**Board Action:** license surrendered to the Board effective January 21, 1997.

#### Board Member Profile-Bruce L. Berry, M.D.

Dr. Berry was appointed to the Board of Medicine in 1993 by Governor Gaston Caperton. He is the Chairman of the Board's Licensure Committee, a member of its Physician Assistant Committee, and its Ad Hoc Committee on Americans with Disabilities Act. Dr. Berry grew up in Weston, W.V., received A.B., Master of Science in Embryology, and M.D. degrees all from West Virginia University. After an internship at Charlotte Memorial Hospital in Charlotte, N.C., he was an Obstetrics and Gynecology Resident at Charleston Area Medical Center (CAMC), in Charleston, W.V., from 1973-1976. Dr. Berry has served on a number of committees at CAMC over the years, and is Clinical Associate Professor for West Virginia University School of Medicine, Charleston Division, Dept of OB/GYN. Over the past decade, he has held a number of positions with ACOG and is a Physician Board Member of PIE Mutual Insurance Company and Chairman of the Carelink Quality Improvement Committee. Dr. Berry practices gynecology in Charleston.



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## STATEMENT FROM THE WV BOARD OF PHARMACY AND THE DRUG ENFORCEMENT ADMINISTRATION

The following statement has been issued by the West Virginia Board of Pharmacy and the Drug Enforcement Administration (DEA).

21 CFR §1306.05(b), states "An individual practitioner exempted from registration under §1301.22(c) of this chapter shall include on all

prescriptions issued by him or her the registration number of the hospital or other institution and the special internal code number assigned to him or her by the hospital or other institution as provided in §1301.22(c) of this chapter, in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or hand printed on it, as well as the signature of the physician." There have been problems throughout the State of West Virginia where prescribers from hospitals or other institutions are failing to have their name stamped, typed, or hand printed upon controlled substance prescriptions that they issue. Licensed pharmacists have been instructed to refuse to fill such prescriptions until they are able to verify the name of the physician and document it on the prescription, although it is the prescriber's duty to have their name legible upon that prescription.

It is a Federal requirement that all written controlled substance prescriptions issued by an individual practitioner at a hospital or other institution have the name stamped, typed, or hand printed upon it along with their signature and any prescriber failing to do so is in violation of Federal law. Some options to consider to handle this situation might be to obtain a stamp for each person authorized to prescribe within an institution, purchase printed blanks with the names and DEA numbers of all persons authorized to prescribe within an institution and have them circle that name when they fill a prescription, or for prescribers to hand print their name when they write the prescription. These procedures would all increase the security of prescriptions and help to avoid forgery, an increasing problem in the State. Hardship upon the patient would also be avoided due to the fact that they would be able to get their prescriptions filled readily rather than waiting for the pharmacist to attempt to verify the name of the prescriber prior to filling the prescription.

If you have questions relative to this statement, please contact the West Virginia Board of Pharmacy at 236 Capitol Street, Charleston, West Virginia 25301-2206 (telephone: 304/558-0558).

### COMMITTEES OF THE WEST VIRGINIA

BOARD OF MEDICINE 1996-1997

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**BOARD ISSUES STATEMENT ON THE USE OF OPIOIDS FOR THE TREATMENT OF CHRONIC NON-MALIGNANT PAIN**

The Board's Ad Hoc Committee on Americans with Disabilities had several meetings with interested parties on the issue of pain management. At the July, 1997, meeting, the full Board approved the Committee's POSITION STATEMENT ON THE USE OF OPIOIDS FOR THE TREATMENT OF CHRONIC NON-MALIGNANT PAIN. In September, 1997, the Board mailed its POSITION STATEMENT to all physicians currently holding an active medical license in the State of West Virginia. If you are interested in receiving a copy of this POSITION STATEMENT, please contact the Board.

West Virginia Board of Medicine

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